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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,779	02/23/2004	Hitoaki Owashi	500.34521CC3	5490

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.  
1800 DIAGONAL ROAD  
SUITE 370  
ALEXANDRIA, VA 22314

EXAMINER
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DEBELIE, MITIKU W

ART UNIT	PAPER NUMBER
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2621

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09/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/782,779	Applicant(s) OWASHI ET AL.	
	Examiner Mitiku Debelie	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10782779.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2 - 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 - 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10782779 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> | 6) <input type="checkbox"/> Other: _____  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :08/20/2007, 07/27/2007, 11/08/2005, 05/31/2005 and 02/23/2004.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statements (IDS) submitted on 08/20/2007, 07/27/2007, 11/08/2005, 05/31/2005 and 02/23/2004 have been considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 16 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 16 recites, "Deciphering means for deciphering a program selected by said selection means" on lines 7 – 8 of claim 6. This limitation is not supported by the specification.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims

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are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 2 – 19 are rejected on the ground of nonstatutory obviousness-type

double patenting as being unpatentable over claims 1 - 20 of U.S. Patent No.

6,321,025. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claim 2 of Application No. 10/782779	Claim 1 of U.S. Patent No. 6,321,025
<p data-bbox="191 344 792 449">A receiver apparatus for a digital signal comprising:</p> <p data-bbox="191 562 792 1037">a receiver which receives a plurality of programs with discrimination information and guide information regarding said programs, wherein said programs are time-division multiplexed into a plurality of data packets and said guide information indicates the contents of said programs;</p> <p data-bbox="191 1516 792 1696">a selector which selects a program from said programs received by said receiver based on the discrimination information;</p> <p data-bbox="191 1801 792 1843">a data former which forms guide</p>	<p data-bbox="818 344 1419 470">A receiver apparatus for a digital signal comprising:</p> <p data-bbox="818 529 1419 1444">a receiver which receives a plurality of programs time-division multiplexed into a plurality of data packets, said plurality of data packets including discrimination information, and guide information regarding said plurality of programs, wherein said plurality of programs and said guide information regarding said plurality of programs are transmitted in a transmission channel and said guide information regarding said plurality of programs suggests the contents of said plurality of programs;</p> <p data-bbox="818 1507 1419 1688">a selector which selects a program from the plurality of programs received by said receiver;</p> <p data-bbox="818 1751 1419 1856">a former which forms guide information regarding the selected program from said</p>

information regarding the selected program from the received guide information regarding said programs, the formed guide information indicating the contents of the selected program; and  an output device which outputs the selected program and the formed guide information in a plurality of data packets	received guide information regarding said plurality of programs, said formed guide information regarding the selected program being based on said discrimination information of the plurality of data packets and suggesting the contents of the selected program; and  an outputted which outputs the selected program and the formed guide information.
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**Regarding claim 3,** grounds for rejecting claim 2 apply for claim 3 in its entirety.

<b>Claim 4 of Application No. 10/782779</b>	<b>Claim 4 of U.S. Patent No. 6,321,025</b>
A receiver apparatus according to claim 2, wherein said formed guide information indicates at least a title of said selected program.	A receiver apparatus according to claim 1, wherein said formed guide information suggests at least the title of said selected program.

**Regarding claim 5,** grounds for rejecting claim 4 apply for claim 5 in its entirety.

<b>Claim 6 of Application No. 10/782779</b>	<b>Claim 10 of U.S. Patent No. 6,321,025</b>
A receiver apparatus according to claim 4, wherein said formed guide information indicates an identification of packets of the selected program.	A receiver apparatus according to claim 2, wherein said former relates said formed guide information with said selected program.

Claim 10 of the patented application does not teach identification of packets. However claim 1, of the patented application, teaches suggesting the content of selected program based on data packets which means that packets. One who is ordinarily skilled in the art could see that for a packet to have its content suggested the packet must have been identified first.

**Regarding claim 7**, grounds for rejecting claim 6 apply for claim 7 in its entirety.

<b>Claim 8 of Application No. 10/782779</b>	<b>Claim 6 of U.S. Patent No. 6,321,025</b>
A receiver apparatus according to claim 2, wherein said formed guide information at least indicates a start time of the selected program.	A receiver apparatus according to claim 1, wherein said former at least suggest the start time of selected program.

**Regarding claim 9**, grounds for rejecting claim 8 apply for claim 9 in its entirety.



<b>Claim 10 of Application No. 10/782779</b>	<b>Lines 26 – 27 of claim 16 of U.S. Patent No. 6,321,025</b>
A recorder apparatus for a digital signal comprising: a display which displays said selected program decoded by said decoder	a display which displays said selected program decoded by said decoder.

<b>Claim 11 of Application No. 10/782779</b>	<b>Claim 11 of U.S. Patent No. 6,321,025</b>
<p>A recorder apparatus for a digital signal comprising:</p> <p>a receiver which receives a plurality of programs with discrimination information and guide information regarding said programs wherein said programs are time-division multiplexed into a plurality of data packets and said guide information indicates the contents of said programs;</p>	<p>A recorder/reproducer apparatus for a digital signal comprising:</p> <p>a receiver which receives a plurality of compressed programs and guide information regarding said plurality of compressed programs, wherein said plurality of compressed programs and said guide information regarding said plurality of compressed programs are transmitted in a transmission channel and said guide information regarding said plurality of compressed programs suggests the</p>

<p>a selector which selects a program from the plurality of programs received by said receiver based on the discrimination information;</p> <p>a data former which forms guide information regarding the selected program from the received guide information regarding said programs, the formed guide information indicating the contents of the selected program;</p> <p>a recording/reproducing device which records said selected program and the formed guide information and reproduces said selected program and said formed guide information; and</p> <p>a decoder which decodes said selected program reproduced by said</p>	<p>contents of said plurality of compressed programs;</p> <p>a selector which selects a program from the plurality of compressed programs received by said receiver; and</p> <p>a former which forms guide information regarding the selected program from said received guide information regarding said plurality of compressed programs, said formed guide information regarding said selected program suggests contents of said selected program; and</p> <p>an recording/reproducing device which records said selected program and the formed guide information and reproduces said selected program and said formed guide information;</p> <p>a decoder which decodes said selected program reproduced by said</p>
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recording/reproducing device based on said formed guide information reproduced by said recording/reproducing device	recording/reproducing device based on said formed guide information reproduced by said recording/reproducing device.
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**Regarding claim 12,** grounds for rejecting claim 4 apply for claim 12 in its entirety.

**Regarding claim 13,** grounds for rejecting claim 7 apply for claim 13 in its entirety.

**Regarding claim 14,** grounds for rejecting claim 8 apply for claim 8 in its entirety.

**Regarding claim 15,** grounds for rejecting claim 10 apply for claim 15 in its entirety.

<b>Claim 16 of Application No. 10/782779</b>	<b>Claim 1 of U.S. Patent No. 6,321,025</b>
A receiver apparatus comprising:  receiver means for receiving a plurality of	A receiver apparatus for a digital signal comprising:  a receiver which receives a plurality of programs time-division multiplexed into a

<p>programs transmitted in a form of a packet multiplexed on one carrier and first program guide information of said plurality of programs;</p> <p>selecting means for selecting a desired program in accordance with said first program guide information;</p> <p>separating means for separating the program selected by said selecting means from said plurality of programs received by said receiver means;</p>	<p>plurality of data packets, said plurality of data packets including discrimination information, and guide information regarding said plurality of programs, wherein said plurality of programs and said guide information regarding said plurality of programs are transmitted in a transmission channel and said guide information regarding said plurality of programs suggests the contents of said plurality of programs;</p> <p>a selector which selects a program from the plurality of programs received by said receiver;</p> <p>a former which forms guide information regarding the selected program from said received guide information regarding said plurality of programs, said formed guide information regarding the selected program being based on said discrimination information of the plurality of</p>
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	data packets and suggesting the contents of the selected program; and  an outputter which outputs the selected program and the formed guide information.
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**Regarding claim 16**, the limitations "deciphering means for deciphering a program selected by said selection means" and "program guide information editing means for editing said first program guide information into second program guide information regarding the program selected by said selecting means" have been addressed in No. 3 above. The limitation, "separating means for separating the program selected by said selecting means from said plurality of programs received by said receiver means" reads on the limitation "discrimination" recited in claim 1 of the patented application above. They both have the same functionality.

**Regarding claim 17**, claims of the patented application do not teach a receiver wherein said packet discrimination information of the second program guide information is the same as the packet discrimination information of said first program guide information. However it is old and well known in the art to have that same discrimination (packet identification) information for two program guides. Official notice is taken.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention have same discrimination (packet identifying) method in order to simplify the design of both the transmitting and receiving device.

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**Regarding claim 18**, grounds for rejecting claim 4 apply for claim 18 in its entirety.

**Regarding claim 19**, claims of the patented application do not teach a receiver apparatus according to claim 16, wherein said program guide information editing means converts table information included in said first program guide information into table information included in said second program guide information. However it is old and well known in the art to convert table information of a first program guide into table information of second program guide.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention convert one table information (e.g. received table information) to another (e.g. rendered table information) in order to be able to display the content of the table.

### ***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitiku Debelie whose telephone number is (571) 270 1706. The examiner can normally be reached on Mon - Fri 8:00 - 5:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571) 272 7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MD  
08/30/2007

  
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